



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,022	06/19/2003	Brent C. Gerberding	S63.2B-10964-US01	5691
60117	7590	11/16/2007	EXAMINER	
RATNER PRESTIA P.O. BOX 980 VALLEY FORGE, PA 19482			GANESAN, SUBA	
ART UNIT		PAPER NUMBER		
3774				
MAIL DATE		DELIVERY MODE		
11/16/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/600,022	GERBERDING ET AL.
	Examiner	Art Unit
	Suba Ganesan	3774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 26 July 2007.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-39 is/are pending in the application.

4a) Of the above claim(s) 21-31 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-20,32-39 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____

5) Notice of Informal Patent Application

6) Other: _____

DETAILED ACTION

Status of the Claims

1. Claims 1-20 and 32-39 are pending for consideration. Claims 21-31 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Response to Arguments

2. Applicant's arguments filed 7/23/2007 have been fully considered but they are not persuasive. Applicant argues that Gladdish teaches bridge to loop connections that are offset angularly with respect to a longitudinal axis, and therefore concludes that Gladdish teaches away from the claimed limitation of a stent having a linear connecting strut attaching or connecting a peak of one serpentine band to a trough of an adjacent serpentine band at the respective apices of each of the peak and trough. The examiner disagrees because even though a connection is offset angularly with respect to a longitudinal axis, it is still a linear connection (see fig. 7). Linear is defined by the American Heritage Dictionary as: of, relating to, or resembling a line; straight. Furthermore, the claim limitation is *generally* linear. Gladdish therefore does not teach away from the claimed invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-20,32-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gladdish, Jr. et al (20020193867), in view of Edwin et al (20020095205) and Burgermeister et al (20030069630) or Ventura (2004/0044399), and further in view of any of Lombardi, et al (6203568),(200400115228), Hossainy et al (6635082) or Schaldach et al (20020103528).

4. Gladdish, Jr. et al discloses the combination of a stent with integral markers. While the preferred embodiment illustrates the markers to be located at terminal portions of the stent, in paragraph [0064], Gladdish, Jr. et al teaches that the markers may be placed anywhere on the stent 100. While Gladdish, Jr. et al fails to specifically disclose other locations, each of Burgermeister et al and Ventura illustrate marker placement at the connecting strut. In light of the teachings of each of Burgermeister et al and Ventura one with ordinary skill in the art could view the connecting strut as a suitable location for a marker. Gladdish, Jr. et al is silent to the framework having an outer and inner covering of PTFE. Edwin et al teaches the combination of a stent comprising a tubular framework having an outer surface and an inner surface and a plurality of interconnected struts, an outer covering of PTFE and an inner covering of PTFE, the outer covering extending along at least a portion of the outer surface of the expandable framework, the inner covering extending along at least a portion of the inner surface of the expandable framework, at least a portion of the inner and outer coverings being contiguous, the combination further comprising at least one radiopaque marker.

See illustrations of figures 3-5 and corresponding supporting portions of the

specification. To provide an inner and outer covering of ePTFE to the serpentine frame of Gladdish, Jr. et al (20020193867) to provide better compatibility and tissue response would have been obvious from the teachings of Edwin et al.

Claims 2,3,4,10-13,20,32-39 see figures 3-5 and specification, paragraphs [0021-0027] of Edwin, et al.

Claim 5, see paragraph [0025] of Gladdish, Jr. et al.

Claim 6, see figure 7 of Gladdish, Jr. et al.

Claim 8, see paragraph [0025] and figure 7 of Gladdish, Jr. et al.

Claim 9, see plurality of markers in figure 7.

Claims 14 and 15 as broadly worded fails to distinguish over the stent of Gladdish, Jr. et al as modified. The stent of Gladdish, Jr. et al is capable of being placed into a cranial vessel of any animal including rabbits, primates and elephants.

Claims 16-19, see figure 8.

The various methods for placing the markers in the stent system is taught by each of Lomabardi, et al, Hossainy, et al and Schaldach et al. 5. The marker (band) may be attached to the framework by crimping, embedding and/or coating a portion of the stent framework. The references teach various placements of the radiopaque marker including near or adjacent an uncovered region of the stent. To apply the marker to the stent via crimping, embedding and/or coating would have been obvious to one with ordinary skill in the art based upon engineering and design considerations.

Claims 33-39, see Edwin et al (6579314) for the coating of the ePTFE with respect to the framework.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gladdish Jr. et al further in view of Nolting et al (6488701). The use of stents for correcting cerebral vasculature is taught by Nolting, et al. If not inherent in Gladdish, Jr. et al to employ a stent to correct aneurysm would have been obvious to one with ordinary skill in the art based on medical considerations

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suba Ganesan whose telephone number is 571-272-3243. The examiner can normally be reached on M-F 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SDG 11/6/2007



BRIAN E. PELLEGRINO
PRIMARY EXAMINER